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APPENDIX IX.

[Vide item (3) on page 844, supra.]

L.C. BILL No. 7 OF 1958.

(As passed by the Council.)

A Bill to provide for the enforcement of standard weights and measures and for matters connected therewith in the State of Madras.

WHEREAS it is expedient to provide for the enforcement of standard weights and measures and for matters connected therewith in the State of Madras;

BE it enacted in the Ninth Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called the Madras Weights and Measures (Enforcement) Act, 1958.

(2) It extends to the whole of the State of Madras.

(3) It shall come into force on such date as the Government may, by notification, appoint: and different dates may be appointed for different provisions of this Act or for different areas or for different classes of undertakings or for different classes of goods.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “ commercial weight or measure ” means a weight or measure purporting to be a standard weight or measure used in any transaction for trade, business or commerce;

(b) “ Controller ” means the Controller of Weights and Measures appointed under section 15,

(c) “ Government ” means the State Government;

(d) “ Inspector ” means an Inspector of Weights and Measures appointed under section 15;

(e) “ measuring instrument ” means any measuring instrument other than a weighing instrument and includes any instrument for measuring length, area, volume or capacity;

(f) “ Mint ” means the mint of the Central Government either in Bombay or in Calcutta;

(g) “ reference standards ” means the sets of standard weights and measures supplied to the Government by the Central Government in pursuance of sub-section (2) of section 15 of the Standards of Weights and Measures Act, 1956 (Central Act 89 of 1956);

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(h) " stamping " means marking in such manner as to be so far as practicable, indelible and includes casting, engraving, etching and branding;

(i) " standard weight or measure " means any unit of mass or measure referred to in sub-section (1) of section 13 of the Standards of Weights and Measures Act, 1956 (Central Act 89 of 1956), and includes any other weight or measure permitted to be used by the Central Government in pursuance of sub-section (1) of section 14 of the said Act;

(j) " verification " with its grammatical variations used with reference to a weight or measure or weighing or measuring instrument, includes the process of comparing, checking or testing such weight or measure or weighing or measuring instrument and also includes re-verification;

(k) " weighing instrument " means any instrument for weighing and includes scales with the weights belonging thereto, scale-beams, balances, spring balances, steel yards and other weighing machines.

CHAPTER II.

STANDARD WEIGHTS AND MEASURES.

3. *Working standards.*—(1) For the purpose of verifying the correctness of commercial weights and measures and weighing and measuring instruments used in transactions for trade, business or commerce, the Government may cause to be prepared—

(i) as many sets as they may deem necessary of authenticated standard weights and measures to be called the working standards, and

(ii) special sets of working standards in relation to bullion and precious stones.

(2) The working standards shall be made of such material and according to such designs and specifications and shall be prepared by such agency and shall be stamped and authenticated by such person or authority and in such manner as may be prescribed.

(3) The working standards shall be kept at such places, in such custody and in such manner as may be prescribed.

(4) A working standard shall be verified with the secondary standard prepared under sub-section (1) of section 4 and marked by such persons, at such places, at such intervals and in such manner as may be prescribed :

Provided that a special working standard in relation to bullion and precious stones shall be verified with the reference standard.

(5) A working standard which is not so verified and marked at the prescribed intervals shall not be deemed legal or be used for the purposes of this Act.

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(6) A working standard which has become defective shall not be deemed legal or be used for the purposes of this Act, until it has been verified and marked in the prescribed manner.

4. *Secondary standards.*—(1) For the purpose of verifying the correctness of the working standards, the Government may cause to be prepared at the Mint as many sets as they may deem necessary of authenticated standard weights and measures to be called the secondary standards.

(2) The secondary standards shall be made of such material and according to such designs and specifications as may be prescribed and shall be stamped and authenticated by such person or authority and in such manner as may be prescribed.

(3) The secondary standards shall be kept at such places, in such custody and in such manner as may be prescribed.

(4) A secondary standard shall be verified with the reference standard at least once in every period of five years and shall be marked with the date of verification by such person or authority and in such manner as may be prescribed.

(5) A secondary standard which is not so verified and marked at the prescribed intervals shall not be deemed legal or be used for the purposes of this Act.

5. *Reference standards.*—The reference standards shall be kept at such places, in such custody and in such manner as may be prescribed.

6. *Standard weighing and measuring instruments.*—(1) For the purpose of verifying the correctness of commercial weights and measures and of weighing and measuring instruments used in transactions for trade, business or commerce, the Government may cause to be prepared as many sets of weighing and measuring instruments as they may deem necessary.

(2) Such instruments shall be of such kind, kept in such number and shall be verified and stamped in such manner as may be prescribed.

(3) Such instruments shall be kept at all places where secondary standards or working standards are kept.

7. *Prohibition of use of weights and measures other than standard weights and measures.*—(1) Notwithstanding anything contained in any law for the time being in force or any custom, usage or practice,—

(a) no unit of mass or measure, other than the standard weight or measure, shall be used in any transaction for trade, business or commerce; and

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(b) no dealing shall be had or contract made for any work to be done or any goods to be sold or delivered by weight or measure except according to a standard weight or measure, in any area in which this section has come into force, if such transaction, dealing or contract relates to any class of undertakings or to any class of goods in respect of which this section has come into force.

(2) Any custom, usage, practice or method of whatever nature which permits any trader, seller or buyer to demand, receive or cause to be demanded or received any quantity of any article in excess of or less than, the quantity fixed by the weight or measure with reference to which the dealing was had or contract made in respect of the said article, shall be void.

(3) Any transaction, dealing or contract in any area in which, and in relation to any class of undertakings or to any class of goods in respect of which, this section has come into force shall, if made or had after the expiry of three months from such commencement, be void in so far as it contravenes the provisions of sub-section (1).

8. *Power to prescribe the use of weights only, or measures only, in certain cases.*—(1) Notwithstanding anything contained in this Act, the Government may, by notification, direct that in any specified trade or class of trades no transaction, dealing or contract shall be made or had except by weight only, or except by measure only.

(2) A notification issued under sub-section (1) shall take effect in such area, with effect on and from such date, and subject to such conditions, if any, as may be specified therein.

CHAPTER III.

VERIFICATION AND STAMPING OF WEIGHTS AND MEASURES.

9. *Marking of denominations on commercial weights and measures.*—Every weight or measure manufactured for use as a commercial weight or measure shall be made of such material and according to such designs and specifications as may be prescribed and shall bear the description of the weight or measure which it purports to be, marked legibly on it in such manner as may be prescribed.

10. *Prohibition of sale of unstamped commercial weights and measures.*—No commercial weight or measure or weighing or measuring instrument shall be sold or delivered unless it has been verified or reverified in accordance with the rules made under this Act and stamped in the prescribed manner by an Inspector, with the stamp of verification.

11. *Prohibition of use of unstamped commercial weights or measures.*—No weight or measure or weighing or measuring instrument shall be used in any transaction for trade, business or commerce unless it has been verified or reverified in accordance with the rules made under this Act and stamped in the prescribed manner by an Inspector, with a stamp of verification.

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12. *Power of Government to exempt.*—Where the size of a commercial weight or measure renders it impracticable to have any denomination marked on it under the provisions of section 9 or to be stamped under the provisions of section 10 or section 11, the Government may, by notification, exempt such weight or measure from being so marked or so stamped.

13. *Prohibition of manufacture, etc., of weights and measures without licence.*—No person shall, in the course of trade, business or commerce, manufacture, repair or sell any commercial weight or measure or any weighing or measuring instrument, unless he has obtained in the prescribed manner a licence in this behalf from the Government or any officer authorised by them.

14. *Marking of weights or measures in sealed containers.*—No person shall sell, offer for sale, expose for sale, or have in his possession for sale, any article contained in a sealed package or container unless such package or container bears thereon, or on a label securely attached thereto, a description of the net weight or measure of the article contained therein:

Provided that this section shall not apply to an article sold, offered for sale, exposed for sale, or in possession for sale which is not ordinarily sold in transactions for trade, business or commerce by weight or measure.

15. *Appointment of Controller, Assistant Controllers and Inspectors.*—(1) The Government may appoint a Controller of Weights and Measures for the State of Madras and as many Assistant Controllers and Inspectors of Weights and Measures as may be necessary for exercising the powers and discharging the duties conferred or imposed on them by or under this Act.

(2) The Government may, by general or special order, define the local limits within which each Assistant Controller or Inspector shall exercise the powers and discharge the duties conferred or imposed on Assistant Controllers of Weights and Measures or on Inspectors by or under this Act.

(3) Subject to the provisions of this Act, all Assistant Controllers of Weights and Measures and Inspectors shall perform their functions under the general superintendence and control of the Controller of Weights and Measures; and the Controller of Weights and Measures and the Assistant Controllers of Weights and Measures may, in addition to the power and duties conferred or imposed on them by or under this Act, exercise any power or discharge any duty so conferred or imposed on Inspectors.

16. *Verification and -stamping by Inspectors.*—(1) Every Inspector shall, for the purpose of verification of weights and measures and weighing and measuring instruments, attend at such place within his jurisdiction and at such time as may be appointed in this behalf by the Controller.

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(2) The Inspector shall verify every weight or measure or weighing or measuring instrument which is brought to him for the purpose of verification and if he finds such weight or measure or weighing or measuring instrument to be correct and in conformity with the Standards of Weights and Measures Act, 1956 (Central Act 89 of 1956), and the rules made thereunder, he shall stamp the same with a stamp of verification in the prescribed manner.

17. *Power to inspect, etc.*—(1) An Inspector may, within the area under his jurisdiction, inspect at all reasonable times, the weights, measures and weighing and measuring instruments which are used in transactions for trade, business or commerce or are in the possession of any person or are on any premises for such use and may verify every such weight or measure or weighing or measuring instrument with a secondary or working standard or weighing or measuring instrument prescribed for the purpose.

(2) For the purpose of verifying the correctness of any weight or measure used in any transaction, an Inspector may also verify the weight or measure of any article sold or delivered in the course of the transaction.

(3) An Inspector may, at all reasonable times, require any trader or any employee or agent of a trader to produce before him for inspection all weights, measures, weighing and measuring instruments which are used by him or are in his possession or are kept on any premises used for trade and all documents and records relating thereto and such trader, employee or agent shall comply with such requisition.

(4) An Inspector may seize and detain any weight or measure or weighing or measuring instrument regarding which an offence under this Act appears to have been committed or which appears to have been or which might be used in the commission of such an offence, and may also seize and detain any articles sold or delivered or caused to be sold or delivered by means of such weight or measure or weighing or measuring instrument together with any documents or records relating thereto.

(5) Where an Inspector has reason to believe that a sealed package or container does not actually contain the net weight or measure of the article which it purports to contain, the Inspector may break open the sealed package or container and verify its contents; and if, on such verification,—

(a) the net weight or measure of the article is found to be correct, the Inspector shall re-seal the package or container where it is possible so to do without injury to the contents thereof and attach a certificate thereto stating the correct weight or measure of the article, or

(b) the net weight or measure of the article is found to be incorrect, the Inspector may seize and detain the package or container and the article contained therein. .

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(6) For the purpose of such inspection, an Inspector may, at all reasonable times, enter into any place where weights, measures or weighing or measuring instruments are used or kept for use in transactions for trade, business or commerce and inspect such weights and measures and weighing and measuring instruments.

18. *Power of Inspector to adjust weights or measures.*—Where it appears to the Government that it is desirable that an Inspector should be allowed in any area to adjust the weights or measures or weighing or measuring instruments, they may, if they think fit, authorise such Inspector to adjust such weights, measures or such instruments accordingly.

19. *Manufacturers, etc., to maintain records and documents.*—

(1) Every manufacturer, repairer or dealer in weights and measures or weighing or measuring instruments, and every person using them in transactions for trade, business or commerce shall maintain such books, records and accounts as may be prescribed and if required so to do by an Inspector, shall produce such books, records and accounts before him.

(2) Notwithstanding anything contained in sub-section (1), if the Government are of opinion that having regard to the nature of business carried on by any such manufacturer, repairer or dealer, it is necessary so to do, they may, by order, exempt such person or class of persons from the operation of that sub-section.

20. *Appeals.*—(1) Any person aggrieved by any decision under this Act may, within sixty days from the date on which such decision is communicated to him, appeal against the decision—

(i) where the decision has been made by an Inspector, to the Controller;

(ii) where the decision has been made by the Controller, not being a decision made in appeal under clause (i), to the Government or any officer specially authorised in this behalf by them.

(2) The Government or the appellate officer referred to in sub-section (1) may admit an appeal presented after the expiration of the said period of sixty days if they are, or he is, satisfied that the appellant had sufficient cause for not presenting it within the said period.

(3) On receipt of an appeal under sub-section (1), the Government or the appellate officer shall, after giving the appellant a reasonable opportunity of being heard and after making such enquiry as they deem or he deems fit, decide the appeal and the decision of the Government or the appellate officer shall be final.

21. *Levy of fees.*—The Government may charge such fees as may be prescribed—

(a) for the grant of licences under section 13, for the manufacture, repair or sale of commercial weights, measures or weighing or measuring instruments, and

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(b) for the verification, marking, stamping and adjustment of commercial weights, measures or weighing or measuring instruments.

22. *Validity of weights and measures duly stamped.*—A weight or measure or weighing or measuring instrument, duly stamped by an Inspector under sub-section (2) of section 16 shall, in the area in which that section and this section have come into force be a legal weight, measure or weighing or measuring instrument in relation to any class of undertakings or to any class of goods in respect of which the said sections have come into force unless it is found to be false or defective and shall not be liable to be restamped by reason merely of the fact that it is used in any place other than that in which it was originally stamped.

CHAPTER IV.

PENALTIES.

23. *Penalty for sale or delivery by weight or measure other than standard weight or measure.*—Whoever, after the expiry of three months from the commencement of this section, sells or causes to be sold or delivers or causes to be delivered in the course of any transaction for trade, business or commerce any article by any denomination of weight or measure other than that of the standard weight or measure shall be punishable, for a first offence with fine which may extend to five hundred rupees, and for a second or subsequent offence, with imprisonment for a term which may extend to three months, or with fine, or with both.

24. *Penalty for sale of unstamped commercial weights and measures.*—Whoever sells or delivers any commercial weight or measure or any weighing or measuring instrument which has not been verified or re-verified or stamped in accordance with the provisions of this Act and the rules made thereunder shall be punishable with fine which may extend to five hundred rupees.

25. *Penalty for use of unstamped commercial weights and measures.*—Whoever uses in any transaction for trade, business or commerce, or has in his possession for such use, any commercial weight or measure or any weighing or measuring instrument which has not been verified or re-verified or stamped in accordance with the provisions of this Act and the rules made thereunder shall be punishable for a first offence, with fine which may extend to five hundred rupees, and for a second or subsequent offence, with imprisonment for a term which may extend to three months, or with fine or with both.

Explanation 1.—If any such weight or measure or weighing or measuring instrument is found in the possession of any trader or any employee or agent of such trader, such trader, employee or agent shall be presumed, until the contrary is proved, to have had it in his possession for use in transactions for trade, business or commerce.

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Explanation 2.—Where any offence under this section is committed by any employee or agent of a trader on behalf of such a trader, such trader shall, unless he proves that the offence was committed by his employee or agent without his knowledge or consent, also be deemed to be guilty of the offence.

26. *Penalty for manufacture of weights, etc., without licence.*—If any person manufactures, repairs, or sells any commercial weight or measure or weighing or measuring instrument, without obtaining a licence as required by section 13, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

27. *Penalty for use of weight or measure in contravention of section 8.*—Whoever contravenes any of the provisions of a notification issued under section 8 shall be punishable with fine which may extend to five hundred rupees.

28. *Penalty for failure to mark weight or measure on sealed containers.*—Whoever contravenes the provisions of section 14 shall be punishable with fine which may extend to five hundred rupees.

29. *Penalty for fraudulent use of weights, measures, etc.*—Whoever fraudulently uses any standard weight or measure or weighing or measuring instrument which he knows to be false shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

30. *Penalty for being in possession of false weight or measure, etc.*—Whoever is in possession of any commercial weight or measure or weighing or measuring instrument which he knows to be false, intending that the same may be fraudulently used, shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both.

31. *Penalty for making or selling false weight or measure, etc.*—Whoever makes, sells or disposes of or causes to be made, sold or disposed of any standard weight or measure or weighing or measuring instrument which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both.

32. *Penalty for giving short weight or measure.*—Whoever in selling any article by weight or measure, delivers or causes to be delivered to the purchaser less than what is purported to be sold shall, if the deficiency exceeds the prescribed limit of error, be punishable with fine which may extend to five hundred rupees.

33. *Penalty for forging, etc., of weights, measures, etc.*—
(1) Whoever forges or counterfeits any stamp used under this Act for the stamping of any standard weight or measure or weighing

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or measuring instrument or possesses any such forged or counterfeit stamp, or removes a stamp from any standard weight or measure or weighing or measuring instrument and inserts the same into another weight or measure or weighing or measuring instrument or wilfully increases or diminishes a weight or measure so stamped, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Whoever knowingly uses, sells, disposes of or exposes for sale any weight or measure or weighing or measuring instrument with such forged or counterfeit stamp thereon, or a weight or a measure so increased or diminished shall be punishable with imprisonment for a term which may extend to six months or with fine, or with both.

34. *Penalty for neglect or refusal to produce weight or measure, etc., for inspection.*—Whoever—

(a) refuses or neglects to produce for inspection under section 17, any weight or measure or weighing or measuring instrument or any document or record relating thereto in his possession or on his premises, or

(b) refuses to permit an Inspector to inspect and verify any such weight, measure, instrument, document or record, or

(c) obstructs the entry of an Inspector under section 17, or

(d) otherwise obstructs or hinders an Inspector in the performance of his duties under this Act;

shall be punishable with fine which may extend to five hundred rupees.

35. *Penalty for breach of duty by Inspector.*—If an Inspector knowingly stamps a weight or measure or weighing or measuring instrument in contravention of the provisions of this Act or of the rules made thereunder, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

CHAPTER V.

MISCELLANEOUS.

36. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Controller of Weights and Measures or any Assistant Controller of Weights and Measures or any Inspector or any other person appointed under this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

37. *Controller, Assistant Controller, or Inspector to be public servant.*—The Controller, every Assistant Controller or Inspector appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

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38. *Cognizance of offences, etc.*—(1) No Court shall take cognizance of an offence punishable under this Act except upon complaint in writing made by the Controller of Weights and Measures or any officer authorized in this behalf by the said Controller by general or special order.

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

39. *Stamped weights, etc., to be presumed to be correct.*—A weight or measure or weighing or measuring instrument duly stamped under the provisions of this Act and the rules made thereunder shall, if it is produced in any court by any Inspector having charge thereof or by any person acting under the general or special authority of the Controller of Weights and Measures, be presumed to be correct, until its inaccuracy is proved.

40. *Offence by companies.*—(1) If the person committing an offence under this Act or any rule made thereunder is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “ company ” means any body corporate and includes a firm or other association of individuals; and

(b) “ director ”, in relation to a firm, means a partner in the firm.

41. *Delegation of powers.*—The Government may, by notification, direct that any power exercisable by them under this Act or the rules made thereunder shall, in relation to such matters and subject to such conditions, as may be specified in such notification, be exercisable also by such officer or authority subordinate to the Government as may be specified in the notification.

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42. Limits of error to be tolerated in weights and measures.—

Subject to any rules that may be made under the Standards of Weights and Measures Act, 1956 (Central Act 89 of 1956), in this behalf, the Government may prescribe the limits of error which may be tolerated—

(a) in working standards referred to in section 3,

(b) in secondary standards referred to in section 4;

(c) in commercial weights and measures or in selling articles by weight or measure generally or as regards any trade or class of trades; and

(d) in weighing and measuring instruments.

43. Power to make rules.—(1) The Government may, by notification, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matter, namely :—

(a) the form and manner in which, and the conditions subject to which licences may be granted under section 13;

(b) the qualifications, functions and duties generally of Inspectors under this Act;

(c) verification and stamping of weights and measures and weighing and measuring instruments and the period within which they are to be re-verified;

(d) inspection of weights and measures and weighing and measuring instruments used in transactions for trade, business or commerce;

(e) the seizure, disposal and destruction of weights and measures which are not authorized by this Act;

(f) the form and manner in which appeals may be preferred against decisions of Inspectors and the procedure for hearing appeals;

(g) any other matter which has to be, or may be, prescribed.

(3) In making any rule under this Act, the Government may provide that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) All rules made under this Act shall, as soon as possible after they are made, be placed on the table of both the Houses of the Legislature and shall be subject to such modifications by way of amendments or repeal as the Legislature may make within fourteen days on which each House actually sits either in the same session or in more than one session.

44. Repeal.—The Madras Weights and Measures Act, 1948 (Madras Act XXII of 1948), and the Travancore Weights and Measures Act, 1085 (Travancore Act VI of 1085), in so far as they have not been repealed by the Standards of Weights and Measures Act, 1956 (Central Act 89 of 1956), are hereby repealed.